

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JEFFREY BOUDER, et al., on behalf of
themselves, the general public, and all others
similarly situated,

Plaintiffs,

vs.

PRUDENTIAL FINANCIAL, INC., THE
PRUDENTIAL INSURANCE CO. OF
AMERICA, et al.,

Defendants,

Civil Action No. 06-04359 (DMC) (MF)

ECF Filed

Returnable October 4, 2010

ORAL ARGUMENT REQUESTED

JIM WANG, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

PRUDENTIAL FINANCIAL, INC., THE
PRUDENTIAL INSURANCE CO. OF
AMERICA, et al.

Defendants,

**PLAINTIFFS' NOTICE OF MOTION
FOR CLASS CERTIFICATION**

PLEASE TAKE NOTICE that on October 4, 2010,¹ or as soon thereafter as the matter may be heard, in the Courtroom of the Honorable Dennis M. Cavanaugh, United States District Court for the District of New Jersey, Newark Division, located at Martin Luther King, Jr. Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07101, Plaintiffs by their undersigned counsel will move this Court, pursuant to Fed. R. Civ. P. 23, for an order: (1) certifying the following classes alleging (as specified in the accompanying proposed order) claims under the pertinent state laws for overtime

¹ Return date shown is the next available motion day pursuant to the briefing schedule set by the Court's Orders dated June 17 and 28, 2010 (dkt. #204 and 208).

pay, unlawful wage deductions, unreimbursed work expenses, meal and rest breaks, waiting time, and assumption:

(a) California Class.

All persons employed by Defendants in the State of California at any time since March 20, 2004, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement,

(a) who worked for Defendants more than 40 hours in any workweek, or more than 8 hours in any workday; or

(b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions, or who were not reimbursed by Defendants for their expenditures on a private office, marketing assistants, or liability insurance.

(b) Hawaii Class.

All persons employed by Defendants in the State of Hawaii at any time since December 15, 2002, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(c) Illinois Class.

All persons employed by Defendants in the State of Illinois at any time since December 15, 2003, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement:

(a) who worked for Defendants more than 40 hours in any workweek at any time since December 15, 2005; or

(b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(d) Michigan Class.

All persons employed by Defendants in the State of Michigan at any time since December 15, 2002, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(e) Montana Class.

All persons employed by Defendants in the State of Montana at any time since December 15, 2003, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who worked more than 40 hours for Defendants in any workweek.

(f) New Jersey Class.

All persons employed by Defendants in the State of New Jersey at any time since December 15, 2002, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who:

(a) worked for Defendants more than 40 hours in any workweek at any time since December 15, 2006; or

(b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(g) New York Class.

All persons employed by Defendants in the State of New York at any time since December 15, 2002, as registered representatives affiliated

with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who:

(a) worked for Defendants more than 40 hours in any workweek; or

(b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(h) Ohio Class.

All persons employed by Defendants in the State of Ohio at any time since December 15, 2006, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who worked more than 40 hours for Defendants in any workweek.

(i) Oregon Class.

All persons employed by Defendants in the State of Oregon at any time since December 15, 2002, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who:

(a) worked for Defendants more than 40 hours in any workweek at any time since December 15, 2006; or

(b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(j) Pennsylvania Class.

All persons employed by Defendants in the State of Pennsylvania at any time since December 15, 2000, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who:

- (a) worked for Defendants more than 40 hours in any workweek; or
- (b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions.

(k) Washington Class.

All persons employed by Defendants in the State of Washington at any time since December 15, 2005, as registered representatives affiliated with Pruco Securities LLC, under an Agent's or Prudential Representative's Agreement, Statutory Agent Agreement, Senior Life Representative Agreement, Career Special Agent's Contract, or Financial Services Associate Agreement, who:

- (a) worked for Defendants more than 40 hours in any workweek; or
- (b) whose compensation was reduced by Defendants' deductions for infrastructure and technology support, marketing assistants, liability insurance, office supplies, marketing materials or recapture of earned commissions;

(2) appointing Plaintiffs as representatives of their respective classes, as specified in the proposed order; and (3) appointing Plaintiffs' attorneys as class counsel, as specified in the proposed order.

PLEASE TAKE FURTHER NOTICE that, in support of this motion, Plaintiffs will rely upon this Notice of Motion and the accompanying Memorandum of Law in Support of Plaintiffs' Motion for Class Certification, Declaration of Kenneth K. Lehn in Support of Plaintiffs' Motion for Class Certification, Supplemental Declaration of Kenneth K. Lehn in Support of Plaintiffs' Motion for Class Certification, and Additional Declaration of Kenneth K. Lehn in Support of Plaintiffs' Motion for Class Certification, as well as all other papers and proceedings in this action.

Plaintiffs respectfully request oral argument on this motion.

Dated: July 15, 2010

Respectfully submitted,

**WINNE, BANTA, HETHERINGTON,
BASRALIAN & KAHN, P.C.**

s/Kenneth K. Lehn

Kenneth K. Lehn (KL 9520)
klehn@winnebanta.com
Court Plaza South, 21 Main Street
Hackensack, NJ 07601
Tel: (201) 487-3800
Fax: (201) 487-8529

Liaison Counsel

LOVELL STEWART HALEBIAN LLP

John Halebian (pro hac vice)
jhalebian@lshllp.com
Adam C. Mayes (pro hac vice)
amayes@lshllp.com
Midtown Office
317 Madison Avenue, 21st Floor
New York, NY 10017
Tel: (212) 500-5010
Fax: (212) 208-6806

Lead Counsel

JERRY K. CIMMET

cimmet@att.net
Attorney at Law
177 Bovet Road, Suite 600
San Mateo, CA 94402
Telephone: (650) 866-4700
Facsimile: (650) 866-4770

JOHN M. KELSON

kelsonlaw@sbcglobal.net
LAW OFFICES OF JOHN M. KELSON
1999 Harrison Street, Suite 700
Oakland, CA 94612
Telephone: (510) 465-1326
Facsimile: (510) 465-0871

**BARROWAY TOPAZ KESSLER
MELTZER & CHECK, LLP**

Peter A. Muhic
pmuhic@btkmc.com

Michelle A. Coccagna
mcoccagna@btkmc.com
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056
Plaintiffs' Executive Committee